

# SRF MANUAL APPENDIX K

## DEPARTMENT OF HEALTH SERVICES DIVISION OF DRINKING WATER AND ENVIRONMENTAL MANAGEMENT

### SAFE DRINKING WATER STATE REVOLVING FUND

## POLICY AND PROCEDURES FOR SOURCE WATER PROTECTION PROJECTS

November 2003

### Purpose of Manual

This document was developed for DHS staff to use in evaluating and processing Source Water Protection (SWP) projects funded through the Drinking Water State Revolving Fund (SRF) program. The procedures for SWP projects are generally the same as those for other SRF projects, but there are several key differences. Pertinent sections of the SRF Policy and Procedures Manual are included in this document, as well as information specific to SWP projects. **The numbering format of the SRF Manual is maintained here so that the reader can refer to the appropriate section in the SRF Manual for additional information.**

Refer to **Attachment 1** for a flow chart for SWP projects.

### Background

Funding for Source Water Protection (SWP) projects was authorized as part of the Safe Drinking Water State Revolving Fund (SRF) program. In accordance with the regulations, "SWP loan funds shall be used only for planning, preliminary engineering, detailed design, construction, education, land acquisition, conservation easements, equipment purchase, and implementing the elements of a source water protection program."

"Source water protection (SWP)" means the process of managing the activities within a delineated source area to prevent drinking water source contamination.

"Source water protection program", also known as a wellhead protection program or a watershed management program, means a comprehensive program developed to protect a water source used as a drinking water supply and includes activities such as organizing a community taskforce to develop and carry out the protection program, educating the community on source protection, conducting a source water assessment to determine the Possible Contaminating Activities (PCAs) to which the source is most vulnerable, identifying management measures for the PCAs posing the highest risk, developing a strategy for implementing those measures, considering protection

principles when siting any new sources, and identifying alternative sources of supply for emergencies.

Projects that may be eligible for SWP funding include only those that are directly associated with source water protection measures such as destruction of abandoned wells; hazardous waste collection programs; public education; water quality monitoring at critical points in protection areas; fencing out cattle and other animals from intakes, tributaries or reservoir boundaries; restricting public access to critical portions of protection areas; evaluations of agricultural practices and education on best management practices; installation of signs at boundaries of zones or protection areas; land acquisition; conservation easements; and structures to divert contaminated runoff from the source.

Projects that are ineligible for SRF-SWP funding include: construction of new drinking water sources; reconstruction of existing drinking water sources; treatment of a drinking water source; or remediation of a contaminant. Ineligible projects include those for which other funding mechanisms already exist, such as cleanup for identified hazardous waste sites and leaking underground storage tanks. SRF-SWP funds cannot be used for federal or state agency projects.

## **I. TYPES OF FINANCING INCLUDING TERMS AND CONDITIONS**

### **G. Source Water Protection Projects**

Public water systems may apply for a loan for projects that will protect sources of water supply. Funds will be reserved from the capitalization grant to fund these projects. The amount of funding to be reserved for Source Water Protection (SWP) loans will likely vary from year-to-year and will be specified in the annual Intended Use Plan. The ranking of projects based on submitted pre-applications and the processing of applications will be done by the Districts in a manner similar to regular SRF construction projects. No grant funding is available for source water protection projects. Separate pre-application and application forms will be used for source water protection projects.

All source water protection loans will carry the same interest rate as SRF construction loans and are limited to a maximum of \$2,000,000 per project. An applicant may not receive an aggregate total of more than \$3,000,000 from any one federal funding allocation for SWP projects.

The amount of reserved funding for SWP projects is normally established at 5% of the SRF capitalization grant (approximately \$4 million per year).

## II. PROJECT PRIORITY LIST

### A. Pre-applications

#### Source Water Protection Projects

Pre-applications are the means by which a water system can request that a project be placed on the SWP Project Priority List (PPL). The SWP pre-application is a two-page form provided by the Department. The information that is presented on the pre-application is the basis upon which the project is ranked. A water system may submit more than one pre-application provided each pre-application addresses a separate project.

In evaluating SWP pre-applications, staff should note that **the intent of source water protection projects is to prevent the water supply from becoming contaminated.** SWP funds should be used to fund projects that prevent a Possible Contaminating Activity (PCA) from releasing contaminants, or to prevent contaminants that have been released from reaching the water supply.

**SWP funds may not be used to clean up contamination, construct new sources, install treatment on existing sources, or to reconstruct or modify existing sources.**

The SWP pre-application form and instructions are included as **Attachment 2**.

SWP pre-application forms will not be mailed to public water systems. Instead, an announcement that SWP pre-application forms are available will be sent with the SRF pre-applications. The announcement will direct water systems to the DHS website to obtain the SWP pre-application form. ***DHS district offices should keep some SWP pre-application forms on hand for water systems that do not have Internet access.***

Refer to the SRF Manual Section II.A. for additional information regarding submission of pre-applications, changing project rankings, and additional details.

### C. SWP Project Priority Ranking Criteria

#### 1. SWP Ranking Categories

The following categories are used for ranking SWP projects:

<u>Category</u>	<u>Description</u>
A	Source water protection projects that address microbial contaminants associated with possible contaminating activities (PCAs) located in Zone A of a SWP area for a ground water source, or located in Zone A or B of a SWP area for a surface water source, if zones have been established.
B	Source water protection projects that address nitrate associated with PCAs located in Zone A for a ground water source.
C	Source water protection projects that address nitrate associated with PCAs located in Zones B5, B10 and/or a recharge area for a ground water source.
D	Source water protection projects that address disinfection byproducts and/or chemicals associated with PCAs located in Zones A and/or B5 for a ground water source, or located in Zones A and/or B for a surface water source, if zones have been established.
E	Source water protection projects that address disinfection byproducts and/or chemicals associated with PCAs in Zone B10 of a ground water source.
F	Source water protection projects that address disinfection byproducts and/or chemicals associated with PCAs in the watershed of a surface water source.
G	Source water protection projects that address disinfection byproducts and/or chemicals associated with PCAs in the recharge area of a ground water source.
H	Source water protection projects that address microbial contaminants associated with PCAs located in Zone B5 and/or B10 for a ground water source, in the recharge area of a ground water source, or in the watershed of a surface water source.
I	Source water protection projects that address microbial contaminants, nitrate, or disinfection byproducts and/or chemicals associated with PCAs in the buffer zone of a ground water source, if a buffer zone has been established.

2. SWP Bonus Ranking Points

SWP projects will be ranked within a category based on the total number of bonus points awarded by the Department using the following criteria:

- a. A water system with a source water assessment completed in accordance with the California Drinking Water Source Assessment and Protection (DWSAP) Program will be awarded 4 bonus points.
- b. A water system that has organized a local task force or work group to develop and implement a source water protection program will be awarded 2 bonus points.
- c. A water system that has developed a source water protection program that identifies possible management measures will be awarded 2 bonus points.
- d. If the contamination from the PCA(s) that the project proposes to address has been released and the direction of movement is toward the drinking water source, the water system will be awarded 3 bonus points.

3. Type of System

Projects in the same category that have the same number of bonus points will be ranked in accordance with the following:

Community water system projects will be ranked above nontransient-noncommunity water system projects, and nontransient-noncommunity water system projects will be ranked above transient noncommunity water system projects.

4. Population

Projects in the same category with the same number of bonus points that are proposed by the same type of water system will be ranked in ascending order (smaller populations above larger populations) by the number of persons served.

**D. Ranking of Pre-applications**

Review of SWP pre-applications may take longer than other SRF pre-applications because Staff may not be as familiar with water system

protection problems or planned protection activities. Reviewing the source water assessment is an essential part of reviewing SWP pre-applications. All source water assessments should now be completed. If the assessment hasn't been done for a proposed project, get it done now! DHS (or LPAs) are responsible for the completion of assessments for sources in use prior to August 31, 1999. Sources placed into service after that date should have been assessed by the water system as part of the permit process.

The review and ranking of pre-applications will commence as soon as the deadline for submission of pre-applications has passed. The review and ranking process will follow the flowchart shown in **Attachment 1**. A SWP pre-application review form is shown in **Attachment 3**.

The first step in the process is to determine if the pre-application is complete. Basically this means the following:

- Are all the blanks filled out?
- Is the source water protection problem adequately described?
- Is the proposed project adequately described?
- Is the required documentation included?
- Is the form signed by an authorized person representing the water system?

If the form is incomplete, District staff should contact the system and acquire the necessary information.

Several items must be addressed during the review of the completed pre-application.

## **1. Water System Eligibility**

Community water systems are eligible for all types of SWP projects. Noncommunity water systems are eligible only for land and easement acquisition. However, of the noncommunity systems, only nonprofit noncommunity systems are eligible. Refer to Section II.D. of the SRF Manual for additional information on determining nonprofit status of noncommunity water systems.

## **2. Project Eligibility and Accuracy**

The documentation and the District staff's personal knowledge should verify the source water protection problem claimed by the applicant. **The problem should be verified by the source water**

**assessment.** The necessary criteria and required documentation are spelled out in this manual. If necessary, staff may need to do a field visit to the system to verify the problem.

The project should address the Possible Contaminating Activities (PCAs) and contaminant(s) identified by the applicant. For example, if the applicant indicated that the project will address microbial contaminants in Zone A, staff should verify that:

- Zone A has been established (through a source water assessment),
- The project addresses a PCA that is a source of microbial contamination (i.e., animal facilities, grazing, on-site sewage disposal systems, sewer lines, or activities that cause increased turbidity for surface water),
- The PCA to be addressed is located in Zone A,
- The proposed project is likely to prevent or minimize the release of microbial contaminants from the PCA or to prevent or slow the movement of the contaminant from the PCA to the drinking water source.

If the problem can't be documented, the applicant should be asked to provide additional documentation, or the project should be determined to be ineligible or ranked at a lower category that can be documented.

If a project will address multiple types of PCAs and/or contaminants (such as identifying and destroying abandoned wells), Staff should confirm that the project will primarily address the contaminant, PCA, and zone that the applicant identified on the pre-application. Staff may rank the project based on the contaminant of greatest threat that will be addressed, even if the project will also address contaminants of lesser threat (i.e., the project may address microbial, nitrate, and chemical contaminants; it can be ranked based on the microbial threat if the primary purpose is to reduce the microbial threat).

If there is any concern regarding the eligibility of the project, the applicant, or the project category or bonus points, staff should contact the SWP Coordinator.

### **3. Project Category**

Staff should review the SWP category descriptions, the source water assessment, the pre-application and additional documentation, and then determine the appropriate category for the project. Additional information to assist in the review is shown in **Attachment 4**.

***The pre-application ranking process is the ideal time for the District to carefully review the existing or previous priority list and determine if changes in current project rankings should be made.*** For example, if a project is currently ranked based on a problem that no longer exists, the project should either be deleted from the list or reranked to a lower category. This is also a good time to separate or combine existing pre-application projects if this was not done at the time of the initial ranking.

#### **4. Bonus Points**

Staff should assign bonus points, as shown on the second page of the SWP pre-application review form.

**Source Water Assessment:** There are 4 points available for a completed source water assessment. This information should be readily available, and the assessment should be reviewed when evaluating the pre-application. Now that the source water assessment program has been fully implemented, all sources should have a completed assessment and all projects should be awarded these bonus points. If the assessment has not been completed it should be done at this time.

**Local Source Water Protection Task Force:** There are 2 bonus points available for this item. The applicant should have indicated on the pre-application whether a task force or work group has already been formed. The intent is to reward systems that have already made progress on source water protection. Forming a local committee is an essential first step to SWP. If staff is not aware of a local task force, the applicant should be requested to provide documentation of the group (such as a membership list or meeting schedule). No credit should be given if formation of the group is only in the planning process.

**Source Water Protection Plan:** There are 2 bonus points available for this item. The applicant should have indicated on the pre-application form if a SWP plan is already in place. If so, ask for a copy of the plan, or a summary of the plan. Make sure that some type of plan is in writing before awarding these bonus points. Is the proposed project in the SWP plan? If not, why not?

**Contaminant Released:** There are 3 bonus points available for this item. Has the contaminant that the project intends to address actually been released? Is the contaminant moving towards the drinking water source? These bonus points are intended to



prioritize projects that address an immediate threat, over those that address a possible threat. Remember, however, that SWP projects are intended for protection of the water supply, not to remediate contamination that has already reached the water supply.

## **5. Pre-application Review Form**

Staff should complete the SWP pre-application review form, assign bonus points, obtain concurrence of the District Engineer, and then fax the pre-application and review form to the SWP Coordinator. This is an extra step, not required for other SRF projects, to ensure consistency of the project categories and bonus points statewide.

The SWP Coordinator will review the pre-application and the review form, and verify that the correct category and bonus points have been assigned. If any changes are necessary, the SWP Coordinator will contact the District.

## **6. Applicant Notification**

Staff should send a letter to the applicant confirming receipt of the pre-application, the determination that the project is eligible for SWP funding, and the category assigned to the project. If the project is determined to be ineligible, the applicant should be notified and given the reason for the determination.

## **E. Multiyear Project Priority List**

The SWP Coordinator will forward all eligible pre-applications to the SRF program headquarters staff. SRF staff will enter the SWP pre-applications into the database, and create the draft SWP Project Priority List (PPL), based on the project categories, bonus points, system type, and population.

The Districts and the SWP Coordinator will have the opportunity to review the draft SWP PPL and make any necessary changes before announcement of the public hearing. Once the public hearing notice has been sent out, no additional ranking changes will be made until the hearing(s) is completed. Districts can recommend additional changes at the hearing if necessary. Once all of the final post-hearing changes have been made, the priority list will be submitted to the Director for final adoption.

Modifications to a project's ranking may be made following adoption if **new** information becomes available. If new information (such as a first-time or revised source water assessment, a detected contaminant in the local

aquifer, etc.) becomes available since the adoption of the PPL and changes the SWP circumstances of the water system such that the project would warrant a higher ranking, the District should make a written recommendation citing the circumstances to Headquarters and identify the new ranking that should be established for the project. Headquarters will enter the information into the database and revise the existing priority list. The District will then notify the water system of the revised project ranking. Headquarters will officially record all changes and notify EPA as needed. If the re-ranking results in the project being added to an existing fundable list, a letter of invitation will be immediately sent to the water system.

If the District becomes aware that a project has been misranked prior to the sending of an invitation to submit a loan application, the District should notify Headquarters and correct the ranking. If the letter of invitation has already been sent out (for example, if the error was discovered during review of the full application), the project will be denied and reranked only if the information submitted by the applicant was inaccurate.

Refer to Section II.E. of the SRF Manual for additional information regarding adoption of the PPL.

#### **F. Determination of the Fundable Portion of the Project Priority List**

Before creating the fundable portion of the SWP PPL for the current funding cycle, the Department will determine the amount of money available for SWP projects. The funds available include: Cumulative SWP set-asides less any funds that were returned to the SRF account because they could not be used by the deadline. Of the remaining funds, the amount of funding for any projects where a Notice of Application Acceptance (NOAA) has been issued, and those that are “in the pipeline” (application deemed complete), will be subtracted from the set-asides to establish the amount of SWP funds available.

The estimated amount of SWP funds available will be compared to the estimated cost of projects on the SWP PPL. To determine the SWP application invitation list, the Department will invite projects in priority order from the PPL up to approximately 200% more than the funds available.

It is the Department’s intent to “over subscribe” the amount of funding actually available because experience has shown that many SWP applicants choose to bypass for a year, or do not return the Statement of Intent (SOI) when required, or do not submit a completed application by the deadline. This may change as the SWP program evolves, and the Department may decrease the over subscription rate in the future.

Any applications approved after the SWP funds available have been entirely allocated will still be issued a NOAA, and will be charged to the next year's SWP set-aside. As a result of this process, no approved project will be delayed as a result of a lower ranked project being funded earlier.

Letters of invitation to submit an application will be sent out as soon as the new project priority list is adopted and the invitation list established.

## **G. Project Bypass Procedures**

(SWP procedures are the same as for SRF projects, and are repeated here for reference.)

From time to time, it may be necessary to bypass a project that is not yet ready to proceed in order to fund a project lower on the priority list. This is essential to meet the federal funding obligation deadlines and avoid loss of funds. However, projects will only be bypassed under one or more of the following conditions:

1. The applicant has indicated on the pre-application form that they do not desire or will not be able to receive funding in the current funding year. This project will be bypassed automatically when the fundable portion of the list is established for the current funding cycle. These projects will be included in the fundable portion of the list (assuming they are high enough on the list) in the year they have designated.
2. An applicant fails to return the Statement of Intent following receipt of a letter of invitation within the 30 day time limit or indicates on the Statement that they are not ready to submit an application at this time.
3. A project that has received an invitation from the Department to submit a full application has subsequently notified the Department that they do not wish to submit an application at this time.
4. The applicant fails to submit the full application by the target date established by the Department. In this case, however, the bypass is only temporary and the project does not have to wait until the next funding cycle. The applicant may still submit the application after the target date, but funding will be dependent upon the availability of funds at the time the application is approved. Given the fact that the Department will be processing funds from more than one funding allocation simultaneously, no project is expected to be delayed as a result of missing a target date.

5. A full application is rejected by the Department and a revised application cannot or will not be resubmitted within the obligation deadlines established by the Department. Examples for rejection include (1) determinations of eligibility, (2) the project selected is not the most cost-effective solution, (3) the applicant cannot afford to repay the loan, (4) the applicant does not have adequate TMF capability, or (5) the applicant has not complied with all of the application requirements. The applicant fails to submit plans and specifications for the project (or meet other Notice of Application Acceptance requirements) by the deadline established by the Department and the initial loan offer is withdrawn. (If an applicant or project is determined to be ineligible, the applicant should be notified in writing and the project should be removed from the PPL.)
6. The applicant has reached the \$3,000,000 (for SWP) annual per-applicant loan maximum for projects on the fundable list. All other projects for the applicant that would exceed the maximum will be bypassed for that year.

Applicants whose projects are, or will be, bypassed will be notified. ***Any project that is bypassed will generally retain its position on the project priority list and will be eligible for potential funding in the following funding cycle .***

### III. PROJECT PRIORITY LIST MANAGEMENT

#### A. Submission of Full Applications

(SWP procedures are the same as for SRF projects, except as indicated.)

When the SWP project priority list and the fundable portions of the list have been adopted, they will be submitted to EPA as part of the annual capitalization grant application. Immediately following the adoption of the new project priority list, invitations will be sent to all projects on the fundable portion of the list and the extended invitation list. This is expected to take place in April of each year. Invitations will not be sent to any water system projects that have been bypassed for that year. Water systems that have multiple projects on the fundable list that exceed in total the **\$3,000,000 loan maximum for SWP projects** will be sent a single invitation and will be asked to designate which projects will submit full applications in order to stay within the maximum.

The invitation letter will include an attached SWP “Statement of Intent” (SOI) that applicants will need to sign and return to the Department within 30 days. **Examples of the SWP invitation letter and SOI form are**

**shown in Attachment 5.** This statement will indicate whether or not the applicant intends to apply for funding during the current funding cycle. In addition to providing proof of receipt, the statement will require the water system to confirm its intention to submit a full application or request bypassing of the project for the current funding cycle. The SWP SOI will be returned to SRF Headquarters where it will be entered into the database and then placed into the official project file. All applicants that return a statement signifying their intent to submit an application will be sent an application package. Headquarters will notify the Districts **and SWP Coordinator** of all systems returning positive SWP SOIs and requesting applications. The full project applications will be sent from the applicant directly to the District Office.

Each SWP application package will consist of several parts in addition to the cover transmittal letter. These packages will be sent from SRF headquarters using the addresses on the pre-application forms. Districts will be notified when these are sent out. Each **SWP application** package will include a SWP application form and instructions as to how to fill out the form, a copy of the SWP SRF regulations, SDWSRF Environmental Review Process Guidelines, and a TMF Assessment Form. An application package will normally be sent for each project on the project invitation list. Therefore, a water system with multiple projects may receive several packages. A separate application must be submitted for each project unless otherwise approved by the Department. **Examples of the SWP application form and instructions are shown in Attachment 6.**

Whereas SWP projects cannot be combined under one pre-application, a SWP loan application can combine more than one project under certain circumstances. An applicant can request this but it is the Districts' discretion and decision as to whether it will be allowed or not. Districts should consider granting a request to combine projects if: (1) all of the projects have received a letter of invitation; and (2) all of the projects are for the same water system (a multi-system owner cannot combine projects involving more than one water system unless they are going to be physically consolidated). Some water systems that expect to be on the fundable portion of the forthcoming project priority list may wish to get started on the application before receiving an invitation from the Department. In this case, the water system may get a copy of an application form and instructions used for the prior year. It is possible that these may change somewhat from year to year and the water system should be so advised. The water system will still receive a formal invitation at the appropriate time and will need to return the Statement of Intent letter. **(SWP and SRF projects cannot be combined.)**

*Only those projects that have received an invitation from the Department to submit an application are eligible to do so. If the District should receive an application from any other water system it should first contact headquarters to verify its status and then notify the water system that its application will not be processed at this time.*

**Consolidation issues do not apply to SWP projects.**

**B. Application Targets and Deadlines**

(SWP procedures are the same as SRF procedures and are repeated here for reference.)

In order to assure that California can meet the SWP obligation deadlines established by EPA it is necessary that full applications be submitted and processed in a timely fashion. For this reason, the Department will generally establish application submittal deadlines or target dates. Typically, applicants will be given up to nine months to submit the application from the date the invitation letters are sent out. Failure to submit an application by the target date established by the Department does not disqualify a project from funding consideration. If a project application is not received by the target date, it simply means that the Department will consider the project to be “not ready to proceed” and will start funding projects farther down on the project priority list. A water system can, and should, still submit the application after the target date imposed by the Department but there is no guarantee that the system will receive funding from the current funding cycle and the application may be held until the following year’s funds are available. This should not delay any project since the Department will be processing multiple funding years simultaneously. In worst cases, however, this should only result in a funding delay of a few months. ***In order to be assured of the earliest possible funding, projects should complete and submit their applications as soon as possible.***

The actual processing time for review of full SWP applications will obviously vary depending on the project’s complexity and the financial status of the applicant. Completion of the technical review of the application, however, should be completed as soon as possible and within a maximum of 150 calendar days from the time the application is considered to be complete. The financial analysis will be conducted in parallel and will be completed during the same 150 days. Allowing up to 30 days for the determination of completeness, 30 days for review and decision regarding funding, and 30 days for loan offer execution means that the ***maximum*** total processing time will be approximately 8 months. To the extent feasible, projects should be processed in a lesser time.

Headquarters staff will closely monitor the submission and processing of applications. ***A project application will be considered to be “in the pipeline” as soon as the District has reviewed the application and determined it to be complete.*** The goal is to assure that there are enough projects in the pipeline to use up the current funding allocation (with a few extra projects as a safety factor). Districts will be expected to contact any applicants that have not yet submitted the application by key target dates to determine progress and warn of the deadline. If, at that point, it is clear that the system will not be able to meet the deadline, headquarters should be advised.

After the responses to the initial invitations have been received, headquarters will make a determination, based on the pipeline status, as to the need to send out additional invitations to projects further down the priority list (extend the invitation list). If this is determined to be necessary, projects will be invited in the order they appear on the priority list until an adequate number of potential projects have been reached. These additional projects will have up to six months to submit applications for funding from the current funding year. ***The goal is to assure that there are enough projects in the pipeline at all times to use up each year’s funding allocation before the obligation deadline.*** To do this, some projects will, of necessity, be funded out of priority list order on a “readiness-to-proceed” basis. Districts do not have to be concerned about funding order or which projects fall under any particular fiscal funding year. This will be the responsibility of headquarters staff. Districts should simply process project applications in the order they are received in the District Office. Only applications received in response to an invitation sent out by the Department will be processed.

In a few cases, Districts and DWR may receive several applications from a single applicant at the same time. Should this occur, the District will designate the order in which the projects should be funded. Projects in higher ranking categories should be funded before lower ranked categories. If the category is the same for all of the projects, the District should designate the funding order based on its judgment of importance.

### **C. Federal Cross-cutting Authorities**

There are numerous federal laws and executive orders that apply by their own terms to projects receiving federal financial assistance, even though that assistance may be administered by the State. Examples of these (the complete list is included in Appendix B) include the National Historic Preservation Act, Wild and Scenic Rivers Act, Equal Employment Opportunity executive orders, Women’s and Minority Business Enterprise, and the Endangered Species Act. As the funding administering agency, the Department has the responsibility to assure that applicants adhere to

the requirements of these crosscutting laws and orders. **The federal cross-cutting requirements apply to all SWP loan projects.**

#### **D. Project Files**

Each funded SWP project will have an official project file containing all relevant documents relating to that project. The official project file will be established and maintained in the District Office. As soon as an application is received from an applicant, the District will establish the project file based on the project number. ***All documents relating to the project should refer to the official project ID number, which is the system ID number followed by a three-digit number assigned by the District.*** This file will be maintained throughout the construction period and until the loan is fully repaid. The file will contain as a minimum; the loan application, technical review analysis report, financial review analysis report, loan offer letter, plans and specifications, environmental documents and forms, loan contract, all correspondence relating to the project, construction inspection reports, and the final project close-out certification. A suggested organization of the project file has been provided to each District office.

Whenever a District has a meeting with an applicant to discuss a project, staff should prepare a memo to the file briefly outlining the discussion and any decisions or conclusions reached at the meeting. This should be placed into the project file.

#### **IV. PROJECT COMPONENT ELIGIBILITY**

One of the key functions of the technical review is to determine what portions of the project are eligible for funding. The project eligibility criteria set forth in the SRF SWP regulations will be used to govern SWP project eligibility. In general, only project facilities that are integral to and necessary to solve the SWP problem for which the project was ranked are considered eligible. Project facilities that are related to other problems (including those that may be ranked lower on the project priority list) are not considered to be eligible. Project components are intended to be fully eligible or ineligible.

Ineligible project components should be clearly identified in the SWP application. Construction bids and the construction contract (if pertinent to SWP projects) must separate eligible and ineligible items so that the Department can determine the eligible share of the total project cost. Because SWP projects are intended for protection of water supplies, not construction of water system facilities, ineligible costs related to excess growth should not be an issue.



As stated earlier, the intent of source water protection projects is to prevent the water supply from becoming contaminated. SWP funds should be used to fund project components that prevent a Possible Contaminating Activity (PCA) from releasing contaminants, or prevent migration of contaminants towards the water supply.

SWP funds may not be used to remediate contamination, construct new sources, install treatment on existing sources, or to reconstruct or modify existing sources. If these activities are part of the overall project, they should be clearly identified as ineligible components.

Project component eligibility is further discussed below.

### **A. Land and Easement Acquisition**

Both community water systems and nonprofit-noncommunity water systems may use SWP loan funds for land and easement acquisition. The acquisition costs must be clearly separated on the project application and budget, because these costs are tracked separately from other SWP project expenses. Land or easements may be acquired to eliminate current or future PCAs from a parcel, or to limit development that may threaten the water supply. The applicant should have a plan that identifies the parcels or general areas that will be acquired, and the parcels should be in the source water assessment zone(s) for which the project was ranked. The contaminant(s) to be addressed by the acquisition should be those for which the project was ranked.

### **B. Source Water Protection Activities**

While the SWP regulations allow a broad variety of activities for SWP funding, the proposed project must primarily address the contaminant in the zone for which the project was ranked. For example, if a project was ranked in Category A because the pre-application identified the project as addressing microbial contaminants in Zone A, then the project application should primarily include components that reduce microbial threats close to the drinking water well; or for surface water sources, in the adjacent reservoir, stream, or tributaries. The applicant should have a written plan that identifies the proposed SWP measures.

### **C. Environmental Costs**

Costs associated with the preparation of environmental review documents are eligible. Cost of implementing environmental mitigation measures identified in the summary of environmental consideration document for the selected project alternative may be eligible for SWP financing.

**D. Ineligible Costs**

**Construction of a New Source/Reconstruction of an Existing Source:**

As stated earlier, the intent of the SWP loan program is to fund projects that protect drinking water supplies from contamination. The funds cannot be used to construct new sources or to modify or reconstruct existing sources. If a water system needs to replace or modify a source due to contamination, the water system should apply under the regular SRF capital improvement program. Similarly, SWP funds cannot be used to construct new sources.

**Treatment of a Source:** Costs related to treatment of the water supply are not eligible for SWP funding. If a water system needs to treat a source due to contamination, the water system should apply under the regular SRF capital improvement program.

**Cleanup or remediation of contaminants:** SWP funds cannot be used to remediate contaminants, even if the contaminants threaten the water supply. Other sources of funds (Clean Water SRF, Underground Storage Tank Cleanup Fund, California Hazardous Substance Account Act, or the Federal Superfund account), should be used to remediate the contamination. Similarly, installing sewer lines in areas with high nitrates due to on-site sewage disposal (septic) systems, should be funded through other means, such as the Clean Water SRF or USDA-Rural Utilities Service or Rural Development. SWP funds **can** be used for projects that prevent the migration of contaminants to the water supply.

**Monitoring and Ongoing Costs:** SWP funds cannot be used to pay for ongoing costs such as monitoring or maintenance. One-time baseline monitoring that identifies sources or pathways of contamination may be an eligible project component, but only as part of a more extensive project that specifically addresses prevention of contaminants from reaching the water supply.

**TMF Deficiencies:** The costs of implementing measures that comply with TMF requirements are not eligible for SWP funding. If the water system cannot readily comply with TMF requirements, the project should be rejected.

**Source Water Assessment:** The costs of doing an initial assessment are not eligible for SWP funding. However, the costs to conduct a more detailed assessment, or to study or investigate a specific contaminant, PCA, or protection measure may be eligible, as part of an overall source water protection program.

## V. PROCESSING FULL APPLICATIONS

### A. Processing Procedures

Applicants will be instructed to submit their SWP project loan applications to the District Office. The District should note the date of receipt and enter it into the database. It is anticipated that District staff will be called on for assistance from applicants during the period following the sending out of invitations for applications. These requests may range from answering simple questions to “hands-on” help in actually filling out the application form. Staff should provide as much assistance as possible given the resources available to the District.

In providing assistance to small water systems, District staff may assist the system in describing the problem and identifying potential alternatives. However, staff should generally avoid making a specific recommendation as to which alternative should be implemented in order to avoid compromising the Department’s enforcement capability should that become necessary at a later date. Staff can also assist the applicant in developing the necessary environmental analysis and documentation and the financial (revenue/expenditure) program.

Districts should encourage the submittal of “complete” applications and discourage applicants from submitting partial or incomplete applications. Applicants have been informed that applications will be processed on a “first come first served” basis, therefore, there may be a tendency to submit an incomplete application in order to get in line early. ***It should be made clear to applicants that an application will not be considered as received until it is complete.*** Therefore, nothing will be gained by the intentional submission of a partial application unless the applicant simply wants to get an informal opinion from staff on a specific aspect of the project.

Applications must be submitted on the SWP application forms provided by the Department (see **Attachment 6**). Separate documents may be attached to the form as appropriate. The application form may be copied and reproduced by the applicant if desired.

### B. Pre-project Meetings

A pre-project meeting with potential SWP applicants may be useful. The experience with similar meetings for SRF projects has been that these meetings are of significant help to applicants and can greatly expedite the completion and submission of an acceptable application. It also can reduce the subsequent application processing workload for the District.

The following are typical subjects that can be discussed at these pre-project planning meetings.

1. The application requirements as well as the steps involved in the processing of the application including anticipated time frames.
2. The scope and eligibility of elements of the proposed project and possible alternatives to be evaluated.
3. Discussion of environmental considerations and needed documentation (CEQA/NEPA) and the timing of these.
4. The need for TMF including the TMF Assessment Form and the process for this.
5. Explanation of funding options, terms and limitations, public vs. private, etc.
6. Financial requirements, terms and conditions, interest rates, and other possible funding sources.

The meeting also provides a full opportunity to answer any questions or address any concerns that the applicant may have. It is a good time to explore what type of technical assistance, if any, may be needed and how or when this could be provided. Depending upon the circumstances, several applicants may be invited to attend a joint meeting.

*Districts are requested to contact each applicant that has submitted a Statement of Intent to submit an application and offer to conduct such a meeting if the applicant desires. As the District determines necessary, staff from headquarters and DWR should be requested to attend the meeting to assist in addressing specific financial or environmental issues. LPA staff should be invited to attend if the applicant is an LPA regulated system. Headquarters staff will only meet with applicants at the request of the District. The SWP Coordinator may be invited to the meeting if desired by the District.*

### **C. Determination of Completeness**

The first step to be taken by the District after receiving a SWP application and recording the date received is to assign a project engineer to the project. To the extent possible, the assigned project engineer should retain responsibility for the project until construction is completed. The next step is to determine if the application is considered to be complete enough to begin the detailed technical and financial reviews. The review

of the application for completeness should be done as soon as possible and must be completed no later than 30 calendar days after receipt. This is simply a quick and cursory “once over” of the application to look for obvious omissions.

During the review for completeness, staff is not expected to make any judgments as to the quality of the material but simply determine if the applicant has addressed all of the things that need to be covered or included in the application. For most projects, this review should not take more than a few hours. A **SWP** Completeness Checklist is included as **Attachment 7**.

Staff do not need to worry about whether or not the financial information contained in the application is complete or not. DWR will determine this and contact the applicant if necessary. ***As soon as the application is received, the District should immediately send a copy of the application (or at least that portion that contains the financial information) to DWR.*** Do not delay sending this material to DWR while waiting for additional technical information from the applicant. Involving DWR at the outset will greatly speed up the processing and approval of the application.

If the application is not complete, the District should notify the applicant in writing. The letter should include a list of items that must be submitted, and should specify a date for submittal. This is not intended as an enforceable deadline, but as a means to keep the project moving.

#### **D. Technical Review of Applications**

As soon as a project application has been determined to be complete a technical analysis should commence. ***A technical review and completion of a project Technical Report is required for all SWP projects.*** Whereas the completeness review merely verified if certain types of information had been included, the detailed technical review analyzes that information for sufficiency and technical adequacy. All of the elements listed under “technical” in the completeness review must be analyzed in detail. The technical review forms the basis for making some of the necessary findings required by law in order to fund a project. In conducting the technical review of a project application, staff may run into an issue requiring a policy decision or an interpretation. These issues should be referred to the SWP Coordinator. If necessary, the SWP Coordinator will refer the issue to the SRF Program Manager or to the SRF Policy Committee for discussion and resolution.

1. Source Water Protection Loan Applications

For SWP loans, the technical review must consist of the following elements:

a. Source Water Assessment

The source water assessment is the basis for the proposed project. Has a source water assessment been submitted that meets all Drinking Water Source Assessment and Protection (DWSAP) program requirements? Specifically, the assessment should be:

- (1) Submitted electronically via TurboSWAP. If the assessment was done without TurboSWAP, the District must enter the information into TurboSWAP and submit electronically.
- (2) Conform to all DWSAP requirements – zones correctly identified, PCAs correctly identified, no overuse of the “unknown” option in the PCA inventory, and all elements completed.

Do the zone(s) and PCA(s) identified in the assessment verify the contaminant to be addressed and the ranking of the project? This should have been determined during the review of the pre-application, but some pre-applications were submitted before assessments were completed.

Does the assessment confirm that the contaminant to be addressed is a significant threat to the water supply? Typically this means that the contaminant is associated with a PCA that has a Very High or High risk ranking, and is located in Zone A and/or near the well or intake. If the contaminant or PCA does not appear to be significant, staff should state why (or if) the project should be funded.

If the source is surface water and no zones were identified in the assessment, the project should not have been rated higher than Category F. If the project was ranked higher than this, and no zones were identified, the assessment should be re-done at this time and zones established. Staff should then review the proposed project and verify that it addresses the PCA and zone for which it was ranked. The revised assessment may be prepared by Staff or the water system.

b. Type of Contaminant and Associated PCAs

The application, or the Engineering Report (discussed below), must describe the type(s) of contaminant that are to be addressed by the project (such as, microbiological contaminants, turbidity, nitrate, chemicals, or disinfection by-products). There must also be a description of the PCAs that are the most likely sources of the contaminant(s). A list of PCAs and associated contaminants is included in Chapter 7 of the DWSAP document.

The project for which this application is being submitted was ranked based on a specific type of contaminant. It is possible that the proposed project will have residual benefits for other types of contaminants. However, to be considered eligible for funding, all elements or components of the proposed project must be directly related to the type of contaminant on which the project was ranked.

Some systems may have more than one project on the project priority list. If a water system has received an invitation from the Department to submit more than one application (multiple projects within the fundable portion of the list), the applicant may combine those projects into one application. In these situations, both projects must be described. If an applicant requests funding for lower priority types of contaminants as part of the project application, the technical report should note this, and staff should either recommend inclusion of these elements or determine them to be ineligible costs. For example, if the project is intended to address microbiological contaminants, funding for the project cannot include elements related to chemical contaminants unless these elements also address microbiological contaminants. If unrelated problems or project elements are included, these elements should be considered ineligible costs.

c. Area or Zone Description.

The project application must include a description of the source water protection area or zones in which the PCAs to be addressed are located. Are these zones consistent with the original assessment? If not, the technical report should state the reason for the difference (i.e., a more detailed

assessment or delineation has been conducted since the original assessment.)

d. Description of Proposed Project

Does the application or the Engineering Report, provide a complete description of the proposed project, and how the proposed project will protect the water supply from the identified PCA(s) and contaminant(s)?

e. Land or Easement Acquisition

Does the application separately identify expenses for land or easement acquisition? Is there a plan or map with a list of parcels or general areas designated for acquisition? How were the parcels or areas identified and prioritized?

f. Map

Does the map submitted with the application clearly show the service area, water system facilities, the drinking water source, the zones, the PCAs to be addressed, and the proposed project elements? This map should show more detail than a basic source water assessment map.

g. Population Served/Service Connections

The technical review should verify these numbers for financial, project ranking, and reporting purposes.

h. Engineering Report

The Engineering Report does not have to follow a specific format but must contain all of the elements described below. Reports that have been prepared for other purposes that address some or all of the elements may be submitted as part of the application.

(1) Description of Proposed Project

(If not submitted separately or included in the project application form): The description of the project should be thorough enough to allow staff to determine whether the proposed project addresses the contaminant of concern and the associated PCAs.



The technical report should state if the project will accomplish any or all of the following:

- Prevent the release of the contaminant.
- Decrease the quantity or concentration of the contaminant within the source water protection area or zones.
- Prevent or minimize the movement of the contaminant that has been released towards the drinking water supply.
- Prevent the contaminant from being drawn into the water supply.

## (2) Evaluation of Alternatives

All reasonable alternatives should be considered. In considering alternatives, only alternatives that involve significantly different concepts need to be evaluated. It is not necessary to evaluate different forms or variations of the same basic concept. For example, in evaluating alternatives for protection of surface water from microbiological sources, it is not necessary to compare signs for public education versus pamphlets. It is only necessary to compare public education (in general) against other concepts such as removal of sanitation facilities along the shoreline of a drinking water reservoir.

In addition to evaluating and discussing the “feasibility” of each alternative, the report should estimate and compare the costs and relative effectiveness (including reliability) of the alternatives. “Costs” need only be addressed in a general sense. The cost of alternatives does not need to break down the alternative into specific detailed costs, and may be based on “typical” construction costs, use of existing examples, or application of best engineering judgment.

If staff believes that a reasonable alternative has not been considered, the applicant should be informed that the application will not be processed further until the additional information is submitted.

## (3) Anticipated Benefits

Staff should discuss this section in the technical report only if an obvious anticipated benefit has been omitted, or if the anticipated benefits appear to be overstated.

(4) Conceptual or Preliminary Project Design

There should be sufficient detail in the preliminary design to verify the estimated costs. The technical report should state whether the preliminary design is reasonable, feasible, and appropriate. The technical report should identify specific details that should be included in the plans and specifications.

(5) Ineligible Costs

The technical report should discuss ineligible elements that the applicant has chosen to include in the project, and any costs that staff has determined to be ineligible.

(6) Cost Breakdown of Proposed Project

As a minimum, the engineering report should show the anticipated costs of the following items (assuming the applicant wishes to have these costs included in the loan amount). If the applicant intends to pay for any of the items from another source, such as reserve accounts, this should be shown on the summary table on the application form.

- Planning, preliminary engineering, and application preparation
- Design and engineering costs
- Construction costs broken down by:
  - Major project components
  - Land acquisition
  - Eligible versus ineligible items
  - Construction management and contingencies
- Legal and administrative costs
- Other (describe)

The technical report should discuss any costs that appear to be unreasonable. The report should verify that the eligible project costs do not exceed \$2 million (\$3 million total per applicant per year – staff should check to see if the applicant has submitted any other SWP applications in that year.)

(7) Cost Impact on Consumers

The applicant is required to submit their water rate structure for the current and past two years. In addition, the applicant

is required to calculate the “average” current water rate charged to residential customers as well as the projected impact of the project on the average residential rate. This information will be used for a variety of purposes by DWR (including possible grants) and the PUC. Districts should review the information for the following:

- (a) Was the method used to determine the “average” residential water rate reasonable?
- (b) Does the rate structure or the calculation methods clearly distinguish between residential rates and commercial or industrial rates?
- (c) Does the projected project cost impact show the amount of the cost of the project to be allocated to residential vs. commercial or industrial users?
- (d) If there is a possibility that the applicant may be designated as a disadvantaged community, Districts should make sure that the project cost impact burden is divided between residential and commercial or industrial users in a manner similar to current water rates.

(8) Scheduling

The engineering report should also include a proposed schedule for project completion. This should include the time needed for preparation and submission of plans and specifications, completion of financing and preparation of construction bids (after approval of plans and specifications), completion of construction, completion of purchase of land and easements, and completion of the CEQA and “NEPA-like” environmental review process. The schedule should be expressed as months needed rather than specific dates since the date for execution of the Notice of Application Acceptance is unknown. Applicants should be reminded that construction must be completed within 3 years from the time the loan contract is executed following approval of plans and specifications. Staff should review the schedule to determine if it appears reasonable.

## E. Environmental Review and Documentation

### 1. General

All applicants for SWP funding must undergo an environmental review that complies with CEQA. As part of the “equivalency” process approved by the EPA, some water systems (including all of those that serve more than 1,000 service connections, have a project cost in excess of \$500,000) must also comply with the NEPA. To comply with NEPA, the EPA has established specific “NEPA-like” requirements that are included in the Operating Agreement with the Department. Accordingly, applicants seeking SRF funding will (unless exempted by the Department under the “equivalency” criteria) be subject to the NEPA-like requirements.

Rather than repeat the environmental requirements for SWP applicants here, staff are directed to the Environmental Review Process Guidelines that are attached as Appendix D of the SRF Manual.

In general, the environmental review process will be conducted in a parallel but separate process with the technical review of the application. All of the environmental reviews for CEQA and NEPA will be conducted by the ERU in headquarters. The ERU will also be responsible for obtaining comments from federally-designated agencies as required under the equivalency process. ***The Districts’ role in reviewing the environmental portion of the application, therefore, is to assure that the application includes one of the following:***

- a. Complete documentation of CEQA and NEPA-like compliance
- b. The Department’s “Schedule of Dates for Compliance with CEQA and NEPA-like Requirements” form that appears to contain reasonable dates
- c. The Department’s “SDWSRF Environmental Information Form”

It is important that the District request environmental clearance from the ERU when environmental documentation is received or when the application is determined to be complete (whichever comes first). The Environmental Document Transmittal/Clearance Request Form (SRF Manual Appendix D) should be used when

requesting environmental clearance or transmitting environmental documents.

District staff should make sure that the Technical Report contains a recommended schedule for environmental documentation compliance where applicable in order to include these dates in the NOAA. Any environmental documents that are available should be submitted to the ERU as soon as they are received.

In a few instances involving private water systems, the Department may become the lead agency under CEQA. Even though the applicant may be a private water system, it is possible that another agency such as the county planning department may be the lead agency. If the District is, unsure it should contact the ERU and discuss the project situation. If it is determined that the Department will be the lead agency, the District should assure that the applicant fills out the Environmental Information Form and submits it along with the application or as soon thereafter as possible.

***SWP project applicants do not have to have completed the environmental review process at the time of application or prior to issuance of the NOAA but must do so prior to execution of a loan contract.*** Some applicants, however, (particularly those who may be seeking some reimbursement for prior construction) may have already completed the CEQA process. In these cases, the ERU will be asked to review the documents and procedures to determine their acceptability. If some additional work needs to be done, the NOAA will still be issued with the condition that this work be completed and approved before loan execution. In any case, the ERU will need to provide environmental clearance for all projects prior to execution of a loan contract. ***Districts should use the Environmental Document Transmittal form (also included in SRF Manual Appendix D) to transmit any environmental documents received with the application to the ERU.***

The environmental review process is somewhat complicated. ***District staff should not hesitate to consult with the ERU or set up environmental consultation meetings with the applicant early in the process.***

#### **F. Review of Technical, Managerial, and Financial Capacity**

Federal law requires that all recipients of SRF funding (including SWP) must meet technical, managerial, and financial (TMF) criteria established by the State. Funding cannot be provided to any water system that the

Department determines does not have, or cannot develop, adequate TMF capacity. Some of the TMF criteria must be met at the time of application, whereas additional time can be allowed to come into compliance with other requirements.

The TMF Guidance Manual describes the requirements and indicates which of those requirements must be met by SRF applicants. The TMF requirements are broken into three categories; technical, managerial, and financial. The requirements, as well as the criteria for evaluation, are described in the TMF Guidance Manual that has been provided to each District and are, therefore, not repeated here.

***Applicants for SWP loans must meet the TMF requirements. Applications from water systems that cannot meet the TMF criteria will be denied pursuant to federal requirements.***

The determination of TMF capability is based on the TMF assessment process which is conducted separately, but in conjunction with, the SRF application review process. ***The District is required to conduct a TMF assessment using the Assessment Form and procedure laid out in the TMF Guidance Manual on each water system that is submitting a SWP application.*** This evaluation and assessment must be completed before the issuance of the NOAA. ***The Technical Project Report must reflect the findings of the TMF assessment and contain the schedule for submission of certain required TMF documents.*** This schedule could be included as a condition of the NOAA.

Not all of the TMF requirements for which an SWP applicant may be deficient will necessarily be addressed as NOAA conditions. Some of these can and should be addressed or obtained through other means available to the District. Generally, therefore, the only TMF deficiencies (as described in the TMF Assessment Forms) that should be included as NOAA conditions are the following:

- a. Technical assessment of the system and a prioritized 5 year capital improvement plan.
- b. Emergency/disaster response plan.
- c. Systems operations plan.
- d. Source capacity vs. projected water demand analysis.

**Because SWP is voluntary, most SWP applicants are expected to meet all of the TMF criteria at the time of application, or shortly thereafter. If the water system cannot readily comply with TMF**

requirements, the project should be rejected. Systems that do not meet the TMF criteria at the time of SWP application will be required to do so within a specified time frame as a condition of receiving the funds. It should not be necessary to use a compliance order for TMF for SWP applicants. The SWP funds cannot be used to develop or improve the TMF capacity of the system.

#### **G. Preparation of the Project Report**

After conducting the technical review of the project application, the law requires that certain findings be made before the project can be approved for funding. ***The information submitted in the application, when viewed collectively, should be sufficient to enable staff to draw the appropriate conclusions.*** Following review of the application, district staff must complete a Technical Project Report. This report reflects the staff engineer's analysis of the project application and will be the basis for any actions taken by the Department. A recommended format and additional guidance for preparation of the Technical Project Report for a SWP project is included as **Attachment 8**.

The project report will consist of several parts including:

1. The staff engineer's analysis (e.g. deficiencies, concerns, observations, judgments, comments) of the project.
2. The development of formal "findings" as described below.
3. The negotiation and development of specific schedules for anything that must be done prior to loan execution including CEQA and NEPA compliance, and plans and specifications submittal.
4. The recommended loan conditions to be included in the Notice of Application Acceptance.

The project report must be signed by the staff project engineer and the District engineer. The SWP Coordinator must also review and concur with the project report. The format for the "SWP Technical Report Approval Memo" by the SWP Coordinator is shown in **Attachment 9**.

The project report, when signed, will be considered as "public" information and may be shared with the applicant or the LPA as appropriate. A copy does not have to be sent to the PUC unless they request it. This report, along with the financial review report from DWR, will form the basis for a decision by headquarters whether or not to fund the project.

Specifically, the law requires that before a project can be funded, the Department must address and make a positive finding with respect to each of the following questions:

1. Is it an eligible project and what are the total eligible costs? It is the District that determines the final eligible cost of the project. If the eligible cost is significantly less than the applicant's request, both the applicant and DWR should be informed immediately since it may affect the applicant's plans (they will have to find additional funding or scale down the project) and it may affect DWR's analysis.
2. Will the project, when completed, address the contaminant and PCAs for which the project is being proposed? Is anything missing that needs to be included in the project in order to make this finding?
3. Is the project consistent with adopted countywide plans, if any? The District can determine this by any applicable means.
4. Is the project being funded the most cost effective means of solving the designated problem? This does not necessarily mean the least cost project. Consider also long term effectiveness, reliability, ease of operation, etc.
5. Does the project fall within the maximum funding limits? If not, can the applicant complete the project using other supplemental funds?
6. Does the water system have adequate TMF capability or is there a reasonable possibility that it could achieve an adequate level given additional time?
7. Will the project be able to comply with CEQA and NEPA in a reasonable time frame?

These findings should be addressed in the project report in the form of conclusions. The project report should contain a specific overall recommendation with respect to funding and should contain any special loan conditions the District feels should be included in the loan offer. As indicated, the project report must designate the amount of project funding that the District has determined to be eligible for SWP funding. If some elements have been determined by the District to be ineligible, the applicant should be notified. ***The project report should be completed as soon as possible but no later than 150 days of receipt of the completed application.*** As soon as the project report is completed, it should be sent to the SWP Coordinator. The SWP Coordinator will review



the project report and forward to Headquarters if approved. If the report is not approved, the SWP Coordinator will contact the District to discuss concerns. As indicated earlier, if the District, at any time, determines that the project does not qualify for funding, it should immediately notify DWR and Headquarters. DWR will continue to process any application (with respect to financial aspects) unless it is notified by the District to discontinue further analysis or processing.

#### **H. Financial Review**

The financial review procedures for SWP loans are the same as for the SRF capital improvement projects with the following exceptions:

- There are no subsidies for disadvantaged communities.
- There are no grants.

The complete financial review information is included in the SRF Manual Section V.H. and is not repeated here.

### **VI. PRELIMINARY LOAN OFFER**

#### **A. Notice of Application Acceptance**

Upon receipt of the Technical Project Report from the SWP Coordinator and the Financial Report from DWR, headquarters will review the recommendations and make a decision whether or not to approve the application. This decision will be made within 30 days of receiving the reports. If the project is deemed to be fundable, headquarters will notify DWR and the District and will designate the fiscal year from which the funding for the project will be derived. DWR will then prepare and execute the NOAA. The NOAA will establish the terms and conditions of the loan, (including the applicable interest rate) and will contain any special conditions recommended by the District or DWR. The NOAA will be executed within 30 days from Department approval. DWR will send copies of the NOAA to DHS headquarters, the District, and the SWP Coordinator.

An example SWP NOAA authorization letter from DHS to DWR is shown in **Attachment 10**. An example SWP NOAA letter is shown in **Attachment 11**.

***The interest rate for the loan will be established as of the date of the NOAA.*** All NOAAs executed during a calendar year will carry the same interest rate. Thus loan offers made on December 31 will likely carry a different interest rate than loans executed on January 1. For SWP loans,

the interest rate will be 50% of the average interest rate that the State paid on general obligation bonds for the prior calendar year. This interest rate will apply to the entire loan period even though the actual loan contract may not be executed for another year or more. All interest rates are fixed by statute and are not negotiable.

The loan repayment period set forth in the NOAA will generally be 20 years unless the District has determined that the useful life of the project is less than 20 years. In this case, the useful life will constitute the loan repayment period. In some cases, such as small loan amounts, DWR may recommend a shorter repayment period. ***The repayment period commences from the date of project completion as determined by the District.***

Issuance of the NOAA will result in a reservation of funds in that amount and will thus constitute obligation of the federal funds. The Notice will be used to determine compliance with the offer obligation deadlines established by the EPA. As required by law, the NOAA will include a number of provisions that the applicant must agree to in order to receive funding. Also included will be a schedule for completion and submission of plans, specifications and other material needed to execute the loan. If environmental documentation has not been completed, the NOAA will also contain conditions compliance with dates set forth in the “schedule of compliance in CEQA and NEPA-like requirements”. ***Within 30 days from the date of execution of the NOAA, the applicant must sign the offer letter indicating their acceptance of the terms and verifying their intention and ability to continue with the project pursuant to the schedule.***

Districts have the responsibility for tracking and monitoring of the applicant after the NOAA has been executed. Progress towards meeting the submission deadline for plans and specifications should be checked periodically. Compliance with any of the special conditions contained in the Notice should also be monitored (e.g. TMF requirements).

#### **B. Projects Involving Consolidation**

Not applicable to SWP projects.

#### **C. Dispute Resolution**

The dispute resolution procedures for SWP projects are the same as for SRF projects, as described in the SRF Manual Section VI.C., and are not repeated here.

## **VII. THE PROCESS BETWEEN ISSUANCE OF THE NOAA AND CONTRACT EXECUTION**

### **A. The Process**

The SWP flow chart shown in Attachment 1 outlines the process and the sequence of steps that occur after the NOAA is issued and when the actual funding agreement is executed. During this period the applicant is responsible for the following actions:

1. Completion of the SDWSRF environmental review process and providing complete and satisfactory CEQA (and NEPA-like if applicable) documentation.
2. Preparation and submittal of detailed plans and specifications.
3. Preparation and submittal of TMF documents as set forth in the NOAA (unless the deadline for submission extends beyond contract execution).
4. Compliance with applicable NOAA conditions.
5. Adoption of an ordinance or resolution dedicating the source of revenue to be used for repayment of loan.
6. Submitting a signed Fiscal Services Agreement to DWR.
7. Obtaining PUC approval to accept loan if the system is investor owned.

During this same time period, the District is generally responsible for the following:

1. Monitoring and tracking compliance with all technical NOAA conditions (financial conditions will be tracked and compliance determined by DWR).
2. Tracking NOAA schedules and deadlines imposed by the Department including CEQA and NEPA-like schedules, TMF document submittal dates, plans and specification submittals, etc.
3. Taking appropriate actions for missed deadlines.
4. Maintaining contact with the applicant regarding progress and providing assistance where appropriate.

5. Working actively with the Environmental Review Unit if the Department is the lead agency for CEQA.
6. Keeping headquarters and DWR advised as to the project status and any changes.

The material that an applicant must submit to the District before the District can recommend approval of the project may or may not come in at the same time. For example, CEQA documents may be submitted prior to final plans and specifications. The District will need to track these elements to assure that the applicant's "final package" contains the following elements, as applicable:

1. Detailed design drawings and plans.
2. Construction blueprints.
3. Design parameters and calculations.
4. Contractor specifications.
5. Proposed bid requirements.
6. Complete environmental documentation.
7. A final cost breakdown of the project

#### **B. Plans and Specifications**

For purposes of the SWP loan program, "plans and specifications" means writings which collectively document and describe the project, including but not limited to engineering plans and specifications for all proposed facility construction, proposed land purchase agreements and transfer documents, proposed easement agreements and transfer documents, and detailed descriptions of any and all public educational materials, maps, signs and reports proposed to be developed as part of the project.

The timing, review and approval procedures for plans and specifications for SWP projects are generally the same as for SRF capital improvement projects (SRF Manual section VII.B.) **and only the highlights are repeated here.** Staff should be aware that various types of documents are considered plans and specifications for SWP projects, and appropriate conditions and deadlines should be established considering the types of documents involved.

The District may request review by the SWP Coordinator of plans and specifications, or request input on conditions and deadlines to establish.

1. Timing and Procedure

***Each NOAA for SWP loans will contain a deadline for submission of plans and specifications (or equivalent documents).*** This deadline will be determined by the District following completion of the technical review of the application. While there is no statutory time limit for submission of the plans and specifications, it is necessary to avoid delays in commencing projects. An inability to complete the design of a project within a reasonable time is an indication of a lack of “readiness to proceed” (as described earlier in this document) and is, therefore, a basis for revocation of the initial Notice of Application Acceptance. It is not necessary that all plans and specifications for various phases of the construction be submitted at the same time. The District may establish various deadlines for submission of plans and specifications for different project stages.

***If an applicant fails to submit the required plans and specifications by the deadline and has not received an extension of time, the applicant will be considered to have violated the terms of the NOAA.*** Should this occur, the District should immediately notify headquarters. Headquarters will then prepare and send a notice to the applicant revoking the initial NOAA and withdrawing the initial loan (or grant) offer. This action will be without prejudice, thus allowing the applicant to resubmit a new application after receiving another letter of invitation from the Department during the next funding cycle.

2. Review and Approval

It is essential that the District verify that the project design is consistent with the project approved in the original application and that the findings made by the District in the technical report are still valid. If the project is significantly different, some of the findings made during the application review process may need to be evaluated. Staff needs to check the final design to assure that no new ineligible items have been added.

Along with the plans and specifications, the applicant should have submitted a detailed cost breakdown. This breakdown should separate out planning and engineering costs, construction costs, **land and easement acquisition costs**, construction management or overhead cost, financing costs, contingency reserve, cost of

eligible versus ineligible items, etc. A standardized form provided by the Department can be used by the applicant. These costs should be reviewed by staff for reasonableness and compared against the allowable guidelines established for the SRF program. When approved, these costs will be the basis for the amount of the loan contract. Similarly, the applicant should have proposed a project schedule. This schedule should be reviewed for reasonableness and will become part of the loan contract.

**C. Water Supply Permit Amendment**

(Not required for SWP projects.)

**D. Execution of the Loan Contract for Construction Projects**

The loan execution procedures for SWP loans are the same as for the SRF capital improvement projects with the following exceptions:

- The format for the “SWP Approval Memo to Execute Loan Contract” is included in **Attachment 12**.
- An example contract transmittal letter for SWP loans is shown in **Attachment 13**.

The complete procedures for execution of loan contracts are included in the SRF Manual section VII.D. and are not repeated here.

**VIII. PROJECT CONSTRUCTION**

The construction, inspection, and certification of project completion procedures for SWP loans are the same as for the SRF capital improvement projects with the following exceptions:

- There are no grants for SWP projects, so statements related to grants are not applicable.

The complete procedures for construction, inspection, and certification are included in the SRF Manual section VIII and are not repeated here.

**IX. Disbursements and Repayments**

The disbursement and repayment procedures for SWP loans are the same as for the SRF capital improvement projects with the following exceptions:

- There are no grants for SWP projects, so statements related to grants are not applicable.

- There are no refinancing projects with SWP funding, so statements related to refinancing are not applicable.

The complete procedures for disbursement and repayment are included in the SRF Manual section IX and are not repeated here.

## **X. COMPLIANCE AND ENFORCEMENT**

The compliance and enforcement procedures for SWP loans are the same as for the SRF capital improvement projects with the following exceptions:

- A permit amendment is not required for SWP projects, so it may not be feasible to use a permit condition as an enforcement mechanism for SWP project technical conditions.

The complete procedures for compliance and enforcement are included in the SRF Manual section X and are not repeated here.